IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1096 OF 2005

WITH

CIVIL APPLICATION NO.1340 OF 2005

M/s.Dynamic Radiators Pvt. Ltd. ..Appellant.

Vs.

M/s.Rajat Engineering Works ..Respondent.

...

Mr.Rajesh Datar for the Appellant.

Mr.R.S.Apte for the Respondent.

Mr.Dilip Koparde, Director of the Appellant present.

Mr.Sagar Gadodiya, Partner of the Respondent present.

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CORAM : DR.D.Y.CHANDRACHUD, J.

20th December, 2005.

P.C. :

This Appeal arises out of an order dated

23rd November, 2005 passed by the Joint Civil Judge, Senior Division, Thane by which an application for the grant of an interim injunction came to be dismissed. The case of the Appellant is that an agreement to sell was entered into between the Appellant and the Respondent on 25th July, 2003. The Respondent does not dispute the execution of the agreement to sell, but it is the case of the Respondent that the agreement was not intended to be acted upon. When this Appeal came up for hearing, an adjournment was sought on 13th December, 2005. Today during the course of the hearing, the Appellant and the Respondent who are represented by authorized representatives to instruct the respective learned counsel have arrived at a settlement. Learned counsel have requested the Court to record the terms of the settlement and to dispose of the Appeal in accordance thereof. Accordingly on the joint request of the learned counsel, the Appeal shall stand disposed of in the following terms :

i) The Appellant and the Respondent agree that the Appellant shall vacate the industrial premises bearing Plot No.R-864 in the Trans

Thane Creek Industrial Area, M.I.D.C., Rabale, Navi Mumbai 400 708 on or before 30th June, 2006. The undertaking of the Appellant in the aforesaid terms tendered through learned counsel is accepted;

ii) Simultaneously with the handing over of possession the Respondent agrees and undertakes to pay to the Appellant the security deposit of Rs.2 lacs which has been handed over by the Appellant to the Respondent. Until the time which has been fixed to hand over vacant possession, the Respondent agrees and undertakes to pay to the Appellant monthly compensation as agreed upon between the parties together with the arrears. All the arrears, if any, shall be paid within a period of two weeks from today;

In view of the aforesaid settlement which has been arrived at between the parties before the Court Special Civil Suit 96 of 2005 is, on the request of the counsel for the Appellant dismissed as withdrawn. The Appellant agrees and undertakes to

not to create any right, title and interest in favour of any third party and further undertakes not to part with the possession of the premises. The Respondent has similarly undertaken to permit the Appellant to peacefully carry on his business in the premises for the term stipulated hereunder.

The aforesaid order has been passed on the joint request of the learned counsel who are duly instructed by the authorized representatives of their clients who are present before the Court.

In view of the disposal of the Appeal from Order, the Civil Application is rendered infructuous and is accordingly disposed of.